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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
New York, 12-30 August 1991

STATEMENT TO THE PLENARY BY THE CHAIRMAN OF
SPECIAL COMMISSION 4 ON THE PROGRESS OF WORK
IN THAT COMMISSION

1. At the resumed ninth session of the Preparatory Commission, the Special Commission had before it the following documents:

(a) LOS/PCN/SCN.4/WP.6/Rev.1 and Corr.1-4, Revised Draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea;

(b) LOS/PCN/SCN.4/WP.5/Rev.1 and Corr.1, Revised Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany;

(c) LOS/PCN/SCN.4/WP.11, Issues Concerning the Initial Financing and Budget of the International Tribunal for the Law of the Sea;

(d) LOS/PCN/SCN.4/1991/CRP.43, Redraft of Pending Articles of the Revised Draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1);

(e) LOS/PCN/SCN.4/1991/CRP.44, Redraft of article 12 of the Revised Draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1).

2. The Special Commission held a total of seven meetings, starting with the 139th meeting. The Contact Group of the Group of 77 on Special Commission 4 Matters utilized some of the time allocated to meetings of the Special Commission for coordination purposes.

3. At the 139th meeting, the Special Commission decided to consider the items on its agenda in the order listed in the work programme for the summer meetings of the ninth session (document LOS/PCN/L.91 of 21 March 1991, para. 17) subject to availability of documents. In considering its working

methods, the Commission agreed that the Chairman would organize meetings of groups of interested delegations with a view to expediting the attainment of generally acceptable solutions to some issues after first determining which issues might require such consultations. Such meetings would in no way limit the right of delegations to meet on their own initiative in order to formulate any common proposal they might wish to make.

4. Efforts were made to conclude the consideration of articles 14-23 of the Revised Draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1 and Corr.1-4), which the Special Commission had been unable to take up at the ninth Session of the Preparatory Commission at Kingston, as well as to conclude its review of the provisions of this Revised Draft Protocol for which the Secretariat had been requested to provide redrafts (LOS/PCN/SCN.4/1991/CRP.43 and 44). A considerable number of the provisions of the Revised Draft Protocol were approved by the Commission, but some of them still require further consultations. The Chairman's summary of the discussion of this draft Protocol will be reflected in document LOS/PCN/SCN.4/L.13/Add.3.

5. The Special Commission, at its 142nd and 143rd meetings, started its review of the Revised Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany, prepared by the Secretariat (LOS/PCN/SCN.4/WP.5/Rev.1 and Corr.1). The provisions of articles 1-19 of the document, with some exceptions, were approved by the Commission. Owing to a lack of time, consideration of the remaining articles of this draft agreement was postponed. The Chairman's summary of those discussions will be reflected in document LOS/PCN/SCN.4/L.11/Add.2.

6. The Special Commission was also to consider the supplementary relationship arrangements between the International Tribunal for the Law of the Sea and the International Court of Justice. At the invitation of the Special Commission, the Registrar of the International Court of Justice addressed the 145th meeting of the Commission on the issues involved and expressed some preliminary views. The Secretariat has been requested to prepare a working paper on such supplementary arrangements, taking into account the views expressed at the meeting and the response expected from the Court to the request addressed by the Special Representative of the Secretary-General in this connection.

7. In the context of the issue of administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea, consultations were conducted between interested delegations on the languages to be used by the Tribunal. As a result of the consultations, progress has been made, but a consensus proposal has not been elaborated. Some interested delegations requested of the Chairman that additional time be given to them for the conclusion of the consultations with a view to reaching a satisfactory agreement.

8. The Chairman of the Special Commission continued his informal consultations on the questions related to the Seat of the Tribunal, with a view to coming to a generally acceptable solution. He consulted with the Chairman of the Contact Group of the Group of 77 and also with a number of interested delegations, including the delegation of Germany.

9. The Chairman reported that views concerning the approach to be taken to the requirements listed in the introductory note to the revision of the official draft Convention (A/CONF.62/L.78) have not been changed since the ninth session of the Commission held at Kingston. These consultations reflected agreement that the Chairman should continue his consultations during the next session with a view to coming to a generally acceptable solution.

10. No additional information was available on the issue of the building requirements and facilities for the Seat of the International Tribunal for the Law of the Sea, and the Commission did not consider the matter during the summer meetings.

11. Owing to a lack of time, the Commission was unable to consider the rest of the items in its programme of work.

12. The Bureau of the Special Commission has proposed that the following matters be considered at the tenth Session of the Preparatory Commission:

(a) Conclusion of the review of the provisions of:

(i) The Revised Draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1);

(ii) The Revised Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (LOS/PCN/SCN.4/WP.5/Rev.1);

(b) Elements of supplementary arrangements between the International Tribunal for the Law of the Sea and the International Court of Justice. The Secretariat has been requested to prepare a working paper for this purpose after it receives the views of the Court;

(c) Consideration of the building requirements and facilities for the Seat of the International Tribunal for the Law of the Sea; other issues related to the Seat of the Tribunal may be considered in this context;

(d) Initial financing of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.11);

(e) Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea; results of consultations on the languages to be used by the Tribunal and on the number of Members of the Tribunal to be available at the Seat of the International Tribunal for the Law of the Sea;

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(f) Continuation of informal consultations by the Chairman of Special Commission 4 on the questions related to the Seat of the Tribunal, with a view to coming to a generally acceptable solution;

(g) Relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea;

(h) Principles governing a relationship agreement between the International Tribunal for the Law of the Sea and the International Seabed Authority;

(i) Issues relating to the draft report containing recommendations for submission to the Meeting of the States Parties to be convened in accordance with Annex VI, article 4, of the United Nations Convention on the Law of the Sea, regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea:

(i) Form and content of the draft report;

(ii) Other issues.

The above programme of work was approved by the Special Commission at its 145th meeting.

13. The Chairman expressed his gratitude and appreciation to delegations for their continued cooperation with the Chair and their constructive approach to the discussions. He also offered thanks to the members of the Bureau, Dr. Theodore Chalkiopoulos (Greece), Mr. Jorge R. Coquia (Philippines), Mr. Siraj-Eldin H. Yousif (Sudan) and Mr. Fernando Alzate (Colombia) for the helpful guidance and competent advice they had given him also during these summer meetings. The Chairman also extended his and the Commission's gratitude to the Special Representative of the Secretary-General of the United Nations, Mr. Satya N. Nandan; as well as to the Secretary of the Special Commission, Mr. Gritakumar E. Chitty, to Mrs. Gertrude Blake and to the other members of the Secretariat for the valuable and competent services they had rendered to the Commission.
